

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

KEVIN ANTOINE JONES, *et al.*,

Defendants.

CASE NO. CR21-0022-JCC

ORDER

This matter comes before the Court on the Government and Co-Defendant September Desiree Grubb's joint motion to continue trial (Dkt. No. 44). Co-Defendants Gerald Allen Cowles, Kevin Antoine Jones, and Kevin Wayne Jones have not lodged objections to the motion. Having thoroughly considered the briefing and the relevant record, the Court hereby GRANTS the motion for the reasons explained herein.

Trial for all Defendants is currently scheduled for April 5, 2021. (*See* Dkt. Nos. 15, 29, 35.) The Government and Ms. Grubb move to continue trial until November 29, 2021 based upon the COVID-19 pandemic's continued impact on the Court's operations; defense counsel's need for additional time to prepare for trial; and the unavailability of Co-Defendant Gerald Allen Cowles, who is currently in state custody pending other charges. (*See* Dkt. No. 44 at 1-3; W.D. Wash. General Orders 01-20, 02-20, 07-20, 08-20, 11-20, 13-20, 15-20, 18-20, 04-21, each of which the Court incorporates by reference.)

1 As the Government and Ms. Grubb note, the pandemic has made it difficult for the Court
 2 to obtain an adequate spectrum of jurors to represent a fair cross section of the community, and
 3 public health guidance has impacted the ability of jurors, witnesses, counsel, and Court staff to
 4 be present in the courtroom. (*See generally id.*) When the Court is able to resume in-person
 5 trials, the Court will be limited by public health measures, such as limits on the number of people
 6 in the courthouse and courtrooms, which will limit the Court's ability to try cases as efficiently
 7 as it would absent a pandemic. *See* General Order 04-21 at 2.

8 In addition, Ms. Grubb's counsel needs additional time to prepare for trial given the
 9 voluminous discovery produced in this matter and counsel's need to conduct its own
 10 investigation. (Dkt. No. 44 at 3.)

11 Having thoroughly considered the briefing and the relevant record, the Court FINDS that
 12 the ends of justice served by granting a continuance outweigh the best interests of Defendants
 13 and the public to a speedy trial. *See* 18 U.S.C. § 3161(h)(7)(A). The reasons for this finding are:

- 14 1. The COVID-19 pandemic has made it difficult for the Court to obtain an adequate
 15 spectrum of jurors to represent a fair cross section of the community, which would
 16 likely make proceeding on the current case schedule impossible or would result in a
 17 miscarriage of justice. *See* 18 U.S.C. § 3161(h)(7)(B)(i).
- 18 2. Public health guidance has impacted the ability of jurors, witnesses, counsel, and
 19 Court staff to be present in the courtroom. Therefore, proceeding with the current trial
 20 date would likely be impossible or would result in a miscarriage of justice. *See* 18
 21 U.S.C. § 3161(h)(7)(B)(i).
- 22 3. Taking into account the exercise of due diligence, the failure to grant a continuance
 23 would deny Defendants' counsel the reasonable time necessary for effective
 24 preparation, *see* 18 U.S.C. § 3161(h)(7)(B)(iv), and would therefore result in a
 25 miscarriage of justice, *see* 18 U.S.C. § 3161(h)(7)(B)(i).
- 26 4. A joint trial for all Defendants is appropriate based on the record currently before the

1 Court. *See Richardson v. Marsh*, 481 U.S. 200, 209–10 (1987); *Zafiro v. United*
2 *States*, 506 U.S. 534, 537–38 (1993). As a result, the necessity for a continuance
3 based on Ms. Grubb’s counsel’s need for additional time to prepare for trial applies
4 equally to each Defendant, for purposes of the Speedy Trial Act. *See* 18 U.S.C.
5 § 3161(h)(6); *United States v. Daychild*, 357 F.3d 1082, 1090 (9th Cir. 2003).

6 Accordingly, the Court ORDERS:

- 7 1. The April 5, 2021 jury trial is CONTINUED until November 29, 2021 at 9:30 a.m.
8 2. Pretrial motions in this matter are due on or before October 15, 2021.
9 3. The period from the date of this order until November 29, 2021 is an excludable time
10 period under 18 U.S.C. § 3161(h)(7)(A).

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12 DATED this 26th day of March 2021.

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16 John C. Coughenour
17 UNITED STATES DISTRICT JUDGE
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